



United States Department of the Interior

U.S. Fish and Wildlife Service
2321 West Royal Palm Road, Suite 103
Phoenix, Arizona 85021-4951
Telephone: (602) 242-0210 FAX: (602) 242-2513



In Reply Refer To:

AESO/SE

June 28, 2001

Mr. Dan Abeyta
Federal Communications Commission
445 12th Street, Floor A237, SW
Washington, D.C. 20554

Re: Telecommunications Facilities in the State of Arizona

Dear Mr. Abeyta:

During the past few months, we have received dozens of requests from communications firms (e.g., Bechtel Communications, Sprint PCS, Crown Castle Communications) and their consultants for concurrence that proposed locations for telecommunications facilities (e.g., cellular) will not affect federally threatened or endangered species or other sensitive biological resources. These requests have contributed to a substantial workload for our staff, and we are concerned that relevant issues pursuant to the Endangered Species Act of 1973, as amended (ESA), Migratory Bird Treaty Act (MBTA), and National Environmental Policy Act (NEPA), are not being effectively addressed. The following comments and recommendations are provided to facilitate the review process for proposed telecommunications facilities, while ensuring that their potential effects to federally listed species and other sensitive biological resources are avoided or minimized.

We understand that approval by your agency is required for many of the proposed telecommunications facilities. As we understand it, your approval is obtained after receiving confirmation from the Fish and Wildlife Service (Service), by the consultants, that no threatened or endangered species will be affected. However, we can no longer provide this level of review. Pursuant to the ESA, if a proposed project involves discretionary Federal involvement or control, and the Federal agency determines that the project "may affect" federally listed species or designated critical habitat, then the Federal agency should consult with the Service pursuant to section 7 of the ESA (50 CFR 402.14). A "may affect" finding is appropriate when a proposed action may pose any effects on federally listed species or designated critical habitat. Your agency may designate, in writing, non-Federal representatives to conduct initial environmental project review in accordance with the ESA (50 CFR 402.08) and NEPA. Please note, however, that this designation does not reduce your agency's ultimate responsibilities for compliance with section 7 of the ESA.

We request that your agency review the proposed telecommunications facilities, or review the conclusions from the consultants, to determine if they “may affect” federally listed species or designated critical habitat. If your agency determines that a “may affect” situation exists, then FCC must either initiate formal consultation or seek written concurrence from our agency that the action is “not likely to adversely affect” federally listed species. During consultation, we will assess the potential adverse effects of the proposed project to federally listed species and critical habitat, and develop measures to avoid and minimize these effects. A “not likely to adversely affect” finding is appropriate when effects on federally listed species are expected to be discountable (i.e., extremely unlikely), insignificant (i.e., not measurable), or completely beneficial. To help expedite our review of future projects that “may affect” federally listed species, we suggest that you submit to us the information requested in the enclosed “Tower Site Evaluation Form” along with detailed map(s) and, if possible, photographs of the project site(s). Please note that the evaluation form was developed from an MBTA perspective, and although the evaluation form does not require the completion of items 5-18 if towers are not lighted or guy-wired, this information is important from an ESA perspective.

To avoid impacts to federally listed and other sensitive species, we recommend that telecommunication facilities and associated equipment be located in developed areas and/or on existing structures whenever possible. Efforts should be made to minimize any effects to habitat during construction and future maintenance activities (e.g., access to sites). Furthermore, we recommend that communication towers be clustered, when practicable, to avoid or minimize impacts to federally listed species and their habitats.

The following general guidelines will be provided to communications firms and/or their consultants. These guidelines supplement those that we have previously provided. “Projects” include all aspects of the installation, construction, and maintenance required for the set-up and operation of a communications facility, including, but not limited to, the tower or pole, equipment cabinet, access road(s), trenching, and fencing. Projects which entail only the following actions are not likely to affect any federally listed species (see **Note** below for exceptions):

1. Projects that do not involve new construction activities.
2. Construction of new tower projects that are co-located with an existing structure of substantial size (e.g., tower, power substation, smokestack, large building, water tank) and do not require the removal of vegetation.
3. Construction of new tower projects within and adjacent to urbanized or developed areas (i.e., areas that do not support habitat that may be occupied by endangered, threatened, or proposed species both within the footprint of the construction and adjacent to the site).
4. Routine maintenance of existing tower sites, such as painting, antenna or panel replacement, upgrading of existing equipment, etc.
5. Repair or replacement of existing towers and/or equipment, provided such activities do not significantly increase the existing tower mass and height, or require the addition of guy wires.

Mr. Dan Abeyta

Note: Exceptions to the above may exist if the project site is located within any of the three survey zones for the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*). Enclosed for your information is the "Recommended Guidance for Private Landowners Concerning the Cactus Ferruginous Pygmy-owl" including a survey zone map and exclusion zones. This information is also available on the Arizona Ecological Services Field Office web site (<http://arizonaes.fws.gov>).

For projects that meet the above criteria and are not within pygmy-owl survey zones (or are within excluded areas), there is no need to contact this office for further project review. For those proposed projects that do not meet the above criteria, particularly projects that involve clearing of vegetation, we will recommend that the communications firms and/or their consultants contact the FCC for further evaluation.

The construction of communication towers in the United States has been growing at an exponential rate, increasing at an estimated 6 percent to 8 percent annually. We are concerned about the cumulative effects of this construction on federally listed species and their habitats. Because the proposed construction of communication towers affects many species throughout Arizona, and results in similar effects to these species, we recommend that your agency initiate programmatic-level consultation with us regarding the overall grid or plan for these facilities. By identifying potential program effects and developing guidelines to minimize these effects to federally listed species and designated critical habitats, subsequent "stepped-down" consultations, where more specific effects on species can be determined within the context of a local geographical area, can be done more expediently. The simultaneous assessment of these effects will also enable us to ensure that the future construction of telecommunication towers and facilities do not result, over time, in cumulative habitat losses to the extent that such losses become significant. The concurrent preparation of a programmatic environmental assessment or environmental impact statement would also ensure compliance with NEPA, and reduce redundant assessments, inefficient project-by-project review, uncoordinated decision making, and staff work load.

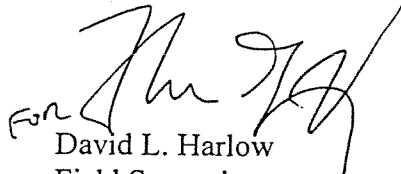
In addition, we are responsible for the conservation and management of migratory birds protected by the MBTA. The construction of new towers creates a potentially significant impact on migratory birds, especially some 350 species of night-migrating birds. Communications towers are estimated to kill 4-5 million birds per year, which violates the spirit and the intent of the Migratory Bird Treaty Act and the Code of Federal Regulations at Part 50 designed to implement the MBTA. Some of the species affected are also protected under the Endangered Species Act and Bald and Golden Eagle Protection Act. To assist your agency and project applicants in minimizing the impacts of communication towers on migratory birds, we have enclosed a copy of our agency's September 14, 2000, guidance on the siting, construction, operation, and decommissioning of communication towers.

Mr. Dan Abeyta

4

If we may be of further assistance, please feel free to contact Tom Gatz (x240) for northern Arizona projects and projects along the Colorado River or Sherry Barrett (520) 670-4617 for southern Arizona projects.

Sincerely,


David L. Harlow
Field Supervisor

Enclosures (2):

1. "Recommended Guidance for Private Landowners Concerning the Cactus Ferruginous Pygmy-owl"
2. "Service Interim Guidelines for Recommendations on Communication Tower Siting, Construction, Operation, and Decommissioning,"

cc: Regional Director, Fish and Wildlife Service, Albuquerque, NM (ARD-ES)
Assistant Field Supervisor, Fish and Wildlife Service, Tucson, AZ

W:\Stefanie Barrett\FCC_towers.wpd